



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/534,776

05/13/2005

John C. Argo

22188/07020

1799

24024 7590 08/21/2007
CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

EXAMINER

RIPLEY, JAY R

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

08/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,776	Applicant(s) ARGO ET AL.	
	Examiner Jay R. Ripley	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04/30/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 21 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 21, and 23-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05/13/2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>05/13/2005, 07/25/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 17-20 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04/30/2007.

Priority

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Information Disclosure Statement

3. The information disclosure statements (IDS) filed on 05/13/2005 and 07/25/2005 were considered by the examiner.

Drawings

4. The drawings are objected to because the reference characters "C1" and "C2" as observed in original Figure 2, are not at least 1/8 inch in height in accordance with CFR 37 1.84(p) (3), below.

- (3) Numbers, letters, and reference characters must measure at least .32 cm. (1/8 inch) in height. They should not be placed in the drawing so as to interfere with its comprehension. Therefore, they should not cross or mingle with the lines. They should not be placed upon hatched or shaded surfaces. When necessary, such as indicating a surface or cross section, a reference character may be underlined and a blank space may be left in the hatching or shading where the character occurs so that it appears distinct.

5. The drawings are objected to because the scale is not in accordance with CFR 37 1.84(k), below. In Figures 3-8 the difference in the reference lines denoting respective centerlines and the respective deviation lines is unclear; the lack of clarity makes it difficult to fully understand the Applicants invention.

- (k) *Scale*. The scale to which a drawing is made must be large enough to show the mechanism without crowding when the drawing is reduced in size to two-thirds in reproduction. Indications such as "actual size" or "scale 1/2" on the drawings are not permitted since these lose their meaning with reproduction in a different format.

6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

Art Unit: 3679

pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

7. The abstract of the disclosure is objected to because it contains subject matter not pertaining to the elected invention of a fitting. Correction is required. See MPEP § 608.01(b).

Claim Objections

8. Claim 24 is objected to because of the following informalities: in line 2, the recitation of “to form an uniform flow path profile” should be --to form a uniform flow path profile--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Note that in the Attachments A-C, the noted centerlines are representative and parallel to the feature’s centerlines. Any parallel displacement is due to space limitations and a desire to show clarity of the angles noted in the claims.

Art Unit: 3679

11. Claims 1-4, 25, 26, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Borla (U.S. Des. 385,523).

12. In regard to claim 1, Borla discloses in Figures 3 and 4, see Attachments A and B, a fitting, the fitting having a first straight end section (A in Figure 4, see Attachments A and B) positioned along a first centerline and a second straight end section (B in Figure 4, see Attachments A and B) positioned along a second centerline, the included angle between the first centerline and the second centerline differing from a right angle by about 2 degrees \pm ½ degree; wherein the fitting is formed as a single piece.

13. In regard to claim 2, Borla further discloses that the included angle is a nominal value of about $88^{\circ} \pm .5^{\circ}$ (as observed in Figure 4, see Attachment B).

14. In regard to claim 3, Borla further discloses that the included angle is a nominal value of about $92^{\circ} \pm .5^{\circ}$ (as observed in Figure 4, see Attachment B).

15. In regard to claim 4, Borla further discloses that at least one of the straight end sections (A in Figure 4, see Attachment B) has an end face that is generally normal to a central longitudinal axis thereof.

16. In regard to claim 23, Borla further discloses a third straight end section (C in Figure 4, see Attachment A) positioned along a third centerline, the included angle between the first centerline and the third centerline differing from a right angle by about 2 degrees \pm ½ degree.

17. In regard to claim 24, Borla further discloses that the first straight end portion is connected to the second straight end portion by a curved portion (as observed in Figure 4, see Attachment A) to form a uniform flow path profile.

Art Unit: 3679

18. In regard to claim 25, Borla discloses in Figures 3 and 4, see Attachments A and B, a one-piece fitting for tube or pipe, comprising

a first straight end section (A in Figure 4, see Attachment A);

a second straight end section (B in Figure 4, see Attachment A); and

a means for connecting the first straight end section to the second straight end section (as observed in Figure 4, see Attachment A) to form a flow passage that is drainable by gravity when the first straight end section is vertically oriented.

19. In regard to claim 26, Borla further discloses that the first straight end section has an end face (as observed in Figure 4, see Attachment B) that extends generally perpendicular to a central longitudinal axis thereof.

20. In regard to claim 28, Borla further discloses that the first straight end section (A as observed in Figure 4, see Attachment B) has a first centerline and the second straight end section (B as observed in Figure 4, see Attachment B) has a second centerline, and wherein the means for connecting (as observed in Figure 4, see Attachment A) the first straight end section to the second straight end section creates an included angle between the first centerline and the second centerline of about $91.5 \text{ degrees} \pm \frac{1}{2} \text{ degree}$. Note that $92 \text{ degrees} \pm .5 \text{ degrees}$ are about $91.5 \text{ degrees} \pm \frac{1}{2} \text{ degrees}$.

21. Claims 1, 5, 25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Scott (U.S. Des. 2,341,953).

22. In regard to claim 1, Scott discloses in Figure 4, see Attachment C, a fitting, the fitting having a first straight end section (E in Figure 4, see Attachment C) positioned along a first

Art Unit: 3679

centerline and a second straight end section (F in Figure 4, see Attachment C) positioned along a second centerline, the included angle between the first centerline and the second centerline differing from a right angle by about 2 degrees \pm ½ degree;

wherein the fitting is formed as a single piece.

23. In regard to claim 5, Scott further discloses each of the straight end sections has a respective end face (as observed in Figure 4, see Attachment C) that is generally normal to a central longitudinal axis thereof.

24. In regard to claim 25, Scott discloses a one-piece fitting, comprising
a first straight end section (E in Figure 4, see Attachment C);
a second straight end section (F in Figure 4, see Attachment C); and
a means for connecting the first straight end section to the second straight end section (as observed in Figure 4, see Attachment C) to form a flow passage that is drainable by gravity when the first straight end section is vertically oriented.

25. In regard to claim 27, Scott further discloses that each of the straight end sections (E and F as observed in Figure 4, see Attachment C) has a respective end face (as observed in Figure 4, see Attachment C) that extends generally perpendicular to a central longitudinal axis thereof.

Claim Rejections - 35 USC § 103

26. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3679

27. Claim 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Borla, as applied to claims 1-4, 25, 26, and 28, above.

28. In regard to claim 21, Borla discloses the claimed invention except for specifically teaching the orbital weldability of one the straight ends. However, the invention of is an "exhaust pipe system for motorcycle" (see Patent Des. 385,583 claim), the Examiner takes the position that the invention of Borla would be made of metal tubing. As metal tubing is weldable, it would have been obvious to one having ordinary skill in the art at the time the invention was made to expect that one of the straight ends of the invention of Borla being capable of being orbitally welded.

Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Steele et al (U.S. 5,509,148), Gresse (U.S. 2,983,995), Cornell (U.S. 2,005,969), Schmidt (U.S. D384,988), Bertil (U.S. 2,183,271), Cornell (U.S. 2,155,080), Farris (U.S. 5,301,984), Kocher (U.S. 1,929,434), Vogel (U.S. 2,126,519), Rafeld (U.S. 5,316,349), Sharpe (U.S. 5,456,499), Waterhouse (U.S. 5,499,882), Rhea et al (U.S. 6,182,326), and Foelester et al (U.S. 2,988,385).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jay R. Ripley whose telephone number is 571-272-7535. The examiner can normally be reached on 01:00 P.M. - 8:00 P.M..

Art Unit: 3679

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



J. R. Ripley
15 AUG 2007



AARON DUNWOODY
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600

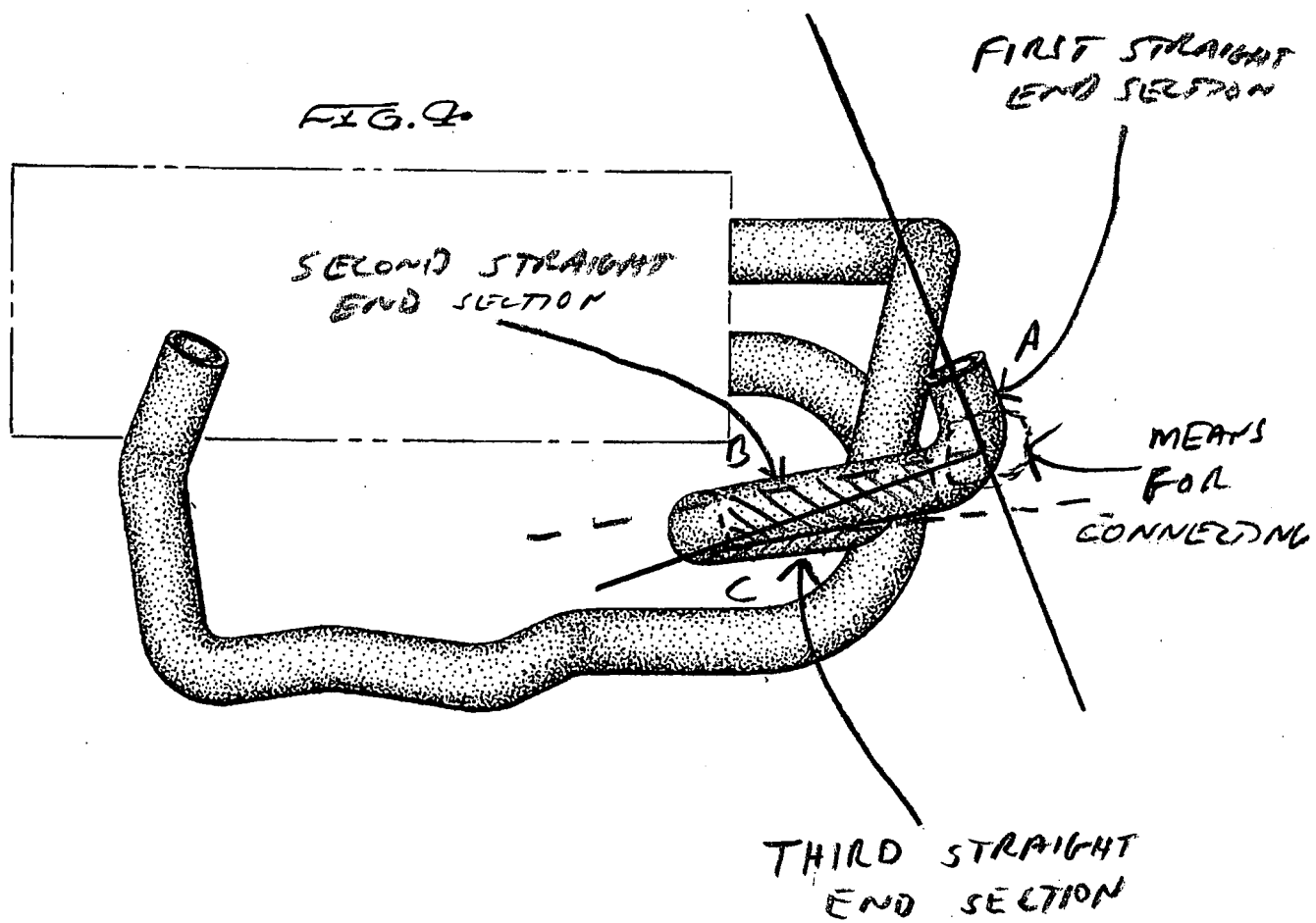
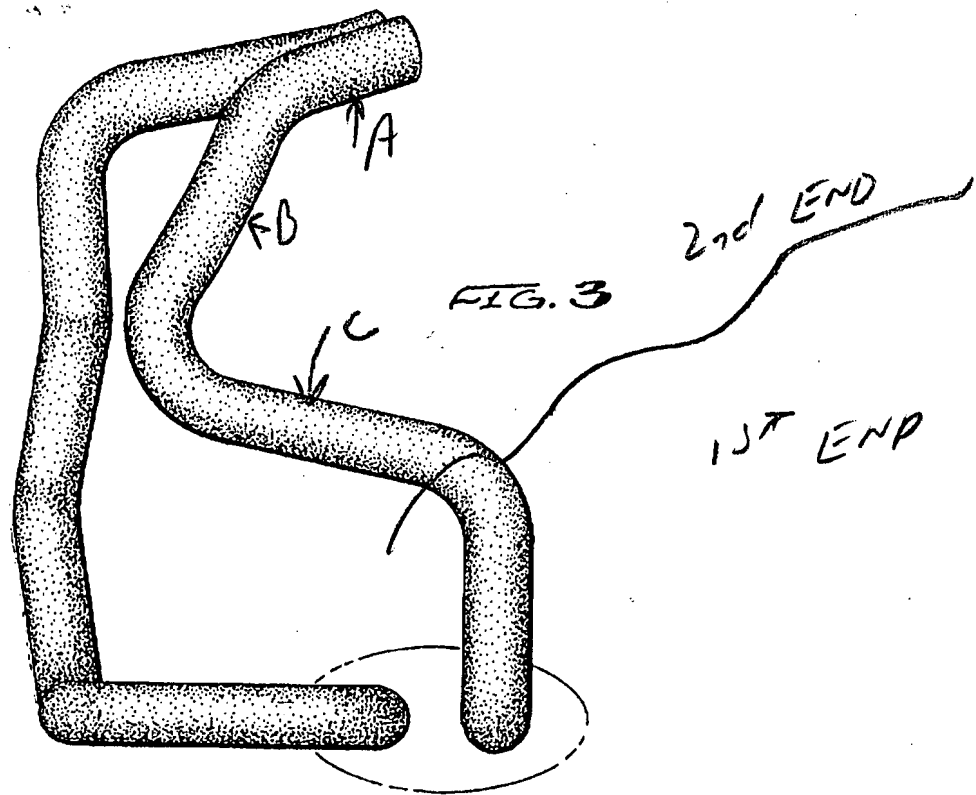
ATTACHMENT A

U.S. Patent

Oct. 28, 1997

Sheet 2 of 4

Des. 385,523



ATTACHMENT B

U.S. Patent

Oct. 28, 1997

Sheet 2 of 4

Des. 385,523

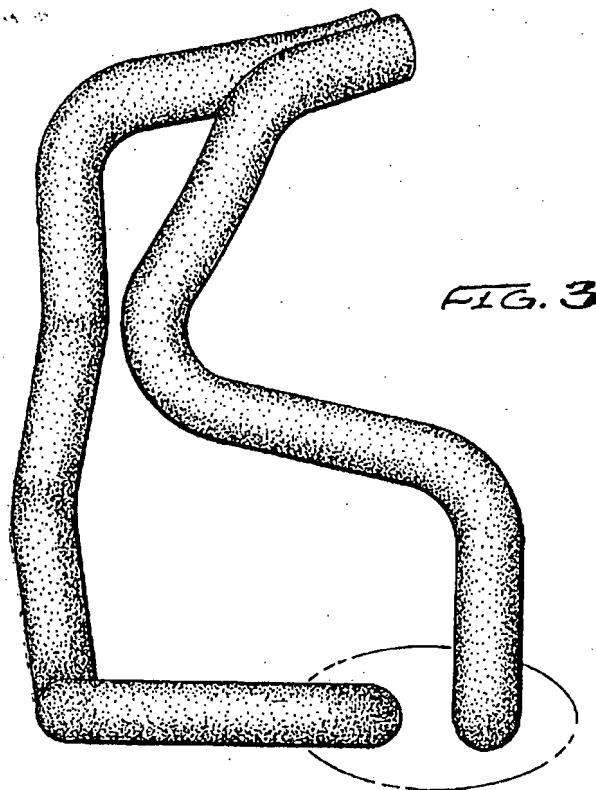
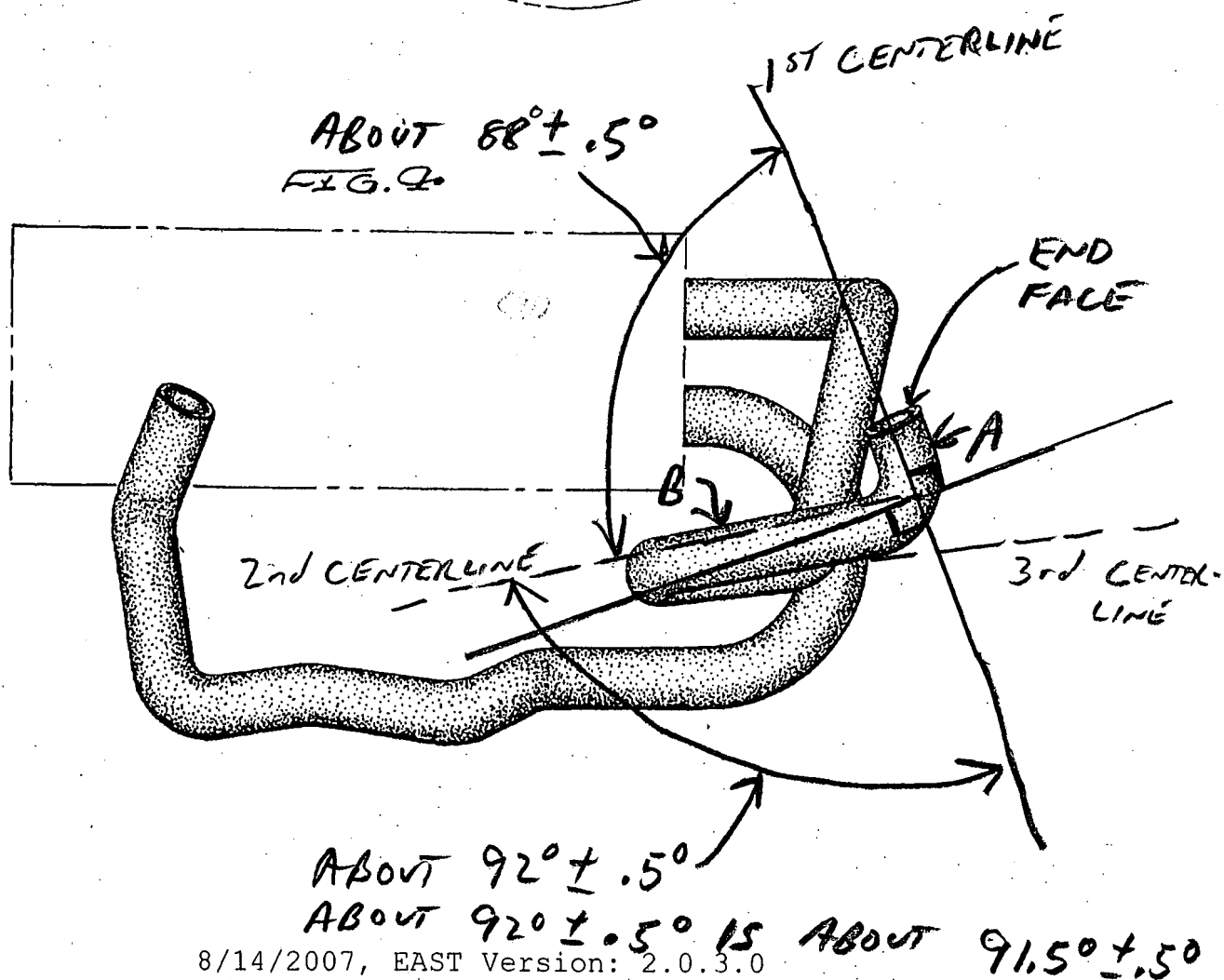


FIG. 3



ATTACHMENT C

Feb. 15, 1944.

W. A. SCOTT

MILK TUBE

Filed May 26, 1942

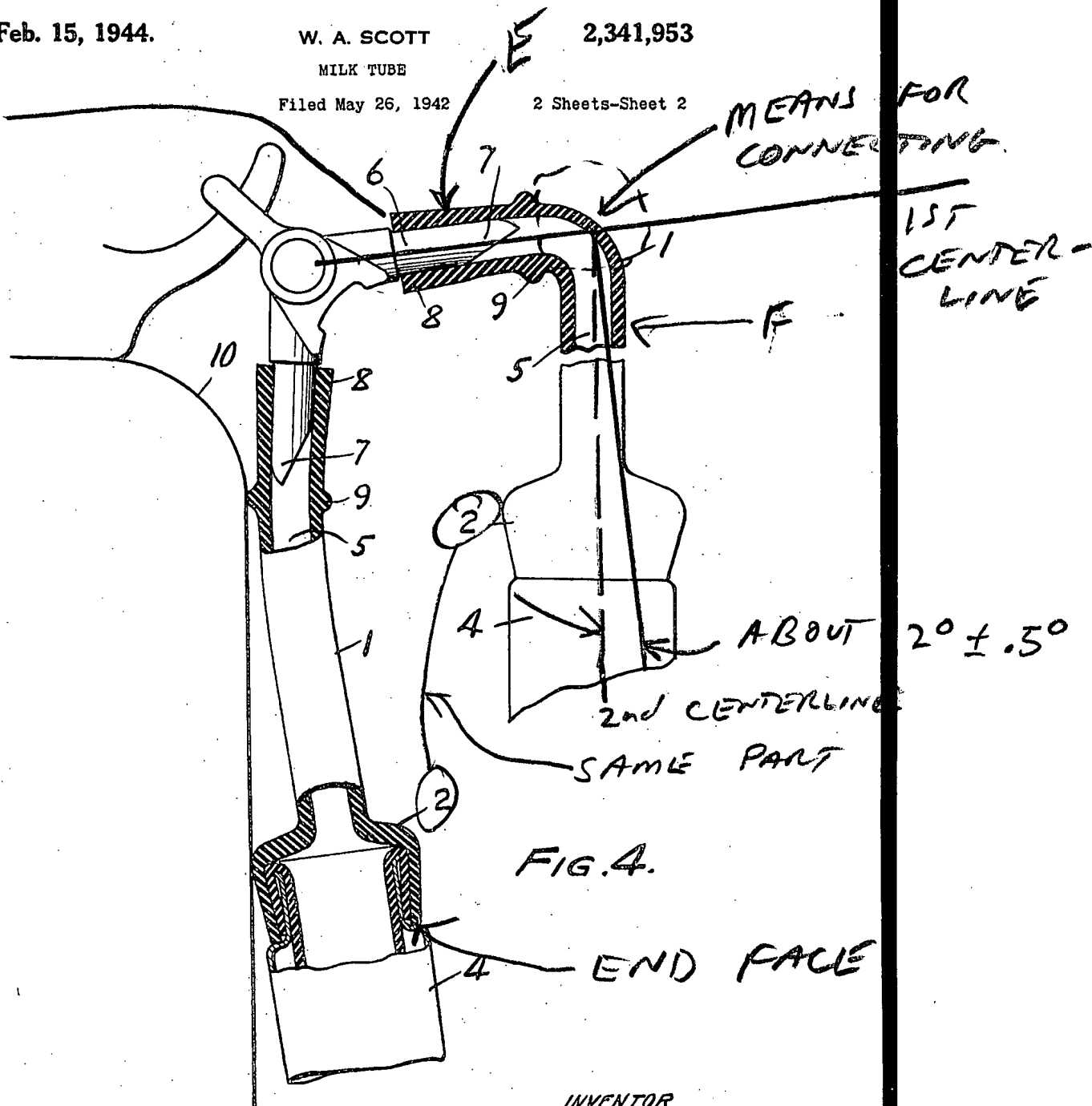
2,341,953

2 Sheets-Sheet 2

END
FACE

MEANS FOR
CONNECTING.

1ST
CENTER-
LINE



INVENTOR

Walter A. Scott

BY

Bussell and Harding
ATTORNEYS.

WITNESS:

Robert R. Mitchell